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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,494	02/04/2002	Brent L. Bucks	A1-1431	3370
27127	7590	10/21/2003	EXAMINER	
HARTMAN & HARTMAN, P.C. 552 EAST 700 NORTH VALPARAISO, IN 46383			HAMILTON, ISAAC N	
		ART UNIT	PAPER NUMBER	
		3724		
DATE MAILED: 10/21/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/072,494	BUCKS, BRENT L.	
	Examiner Isaac N Hamilton	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08-06-2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-40 is/are rejected.
- 7) Claim(s) 1 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____ .
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>08</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: “C2]” in line 6 should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claim rejections made under 35 USC 112 are hereby withdrawn.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9, 11-19, 21-29 and 31-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Frey et al. (5,473,967), hereafter Frey.

Regarding claims 1 and 21, note passage 37; cutting means 150, 154; opening 142; guide means 140 in column 5, lines 31-45; first portion of the passage is everything to the right of the vertical line 37 in figure 6; second portion of the passage is everything to the left of the vertical line 37 in figure 6; any feature that is on the left side of the line 37 is considered to be oppositely disposed from any features on the right side of line 37; means for applying a force 90, 130.

Regarding claims 2 and 22, note tubular member 44, 54, 64, 74, 141; first wall portion 44, 54, 64, 74, 141; since the applying means/nozzles 90 are disposed in a circular fashion about the passage 37, the nozzles are oppositely-opposed along the second wall portion of the tubular members.

Regarding claims 3 and 23, note fluid jets 130.

Regarding claims 4 and 24, note two jets on member 74 are coplanar and converge towards the first portion.

Regarding claims 5 and 25, note several nozzles 90 at angles of greater than 0 degrees and less than 180 degrees relative to each other in figure 6.

Regarding claims 6 and 26, note in figure 6, intersection points 133 and 134 intersect at the first portion of the passage. Also, it inherent that the fluid jets can intersect in any location in the passage as described in column 5, lines 3-24.

Regarding claims 7 and 27, note fluid jets flow in a downward direction at an angle of about 0 degrees to less than 90 degrees from horizontal in figure 6.

Regarding claims 8 and 28, note passage is at an angle of about 90 degrees to the plane of the cutting means 154 in figures 6, 9 and 10.

Regarding claims 9 and 29, note hub 156 at vertical axis of rotation; blades 154, 157.

Regarding claims 11 and 31, note means for delivering 31, 26, 35, 33, 36, 34, 29, 28, 30 and 27 in figure 1.

Regarding claims 12 and 32, note passage 37; cutting means 150; means for defining passage is every element in figure 6; wall portion is any element on the right side of the vertical line 37 in figure 6; second portion is any element on the left side of the vertical line 37 in figure

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6; opening juxtaposed between sections of element 183 in figure 12; splines 143; fluid jets 90, 130; force 130; product 21; means for delivering the product 31, 26, 35, 33, 36, 34, 29, 28, 30 and 27 in figure 1. It is noted that the water jets are arranged about the circumference of the passage and since the second portion of the passage is tubular, there are water jets flowing across the passage from the second portion. Note water jets converging toward wall portion 140 in figure 6. It is to be noted that any feature that is on the left side of the line 37 is considered to be diametrically opposite any features on the right side of line 37, and vice versa.

Regarding claims 13 and 33, note tubular member 44, 54, 64, 74, 141; wall portion 44, 54, 64, 74, 141 on right side of line 37 in figure 6; second wall portion 44, 54, 64, 74, 141 is diametrically opposite the first wall portion because both elements are circular, and one portion of the wall portion on the right side is diametrically opposite to the second wall portion on the left side, and vice versa; nozzles 90.

Regarding claims 14 and 34, note fluid jets 90, 130 on several levels in figure 6. It is noted that there are several sets of jets on each tubular member 44, 54, 64, 74; a set of jets comprises adjacent jets 90, 130.

Regarding claims 15 and 35, note angles of up to 90 degrees of fluid jets 90, 130; nozzles are at an angle of 30 degrees downward.

Regarding claims 16 and 36, note all jets on a given tubular member converge to the same location 131, 132, 133, 134.

Regarding claims 17 and 37, note passage 37 is at an angle of 90 degrees to cutting means 150.

Regarding claims 18 and 38, note hub 156; blades 154 and 157.

Regarding claims 19 and 39, note as the blades 154 and 157 rotate they pass the opening juxtaposed between the sections 183 in figure 12; the second portion is disposed circumferentially about the passage; the wall portion is divided into 3 sections by the opening in figure 12; the exit point is adjacent to the section 183, which is passed as the blades rotate; fluid jets intersect at locations 131, 131, 132 and 134 in figure 6, which are above the exit point of the wall portion in a vertical direction.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 20, 30 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frey in view of Kubon (2,664,130). Frey discloses everything as noted above, but does not disclose a crinkled or V-slice cut. However, Kubon teaches a crinkled or V-slice cut 48 and 78. It would have been obvious to provide a crinkled or V-slice cut in Frey as taught by Kubon in order to shape the sides of a strip of potato to materially increase the area of the strip to more thoroughly and evenly.

Response to Arguments

Applicant's arguments filed 08-06-2003 have been fully considered but they are not persuasive. Applicant asserts that Frey does not disclose or suggest that the fluid jets 130

operate to urge food product away from a one portion of the passage 37, toward an oppositely-disposed portion of the passage 37. It is believed that Frey does disclose that the fluid jets 130 operate to urge food product away from a one portion of the passage 37, toward an oppositely-disposed portion of the passage 37. Although Frey does disclose that Frey's water jets 130 operate to center food product, the horizontal force that the jet produces urges food product away from that portion of the passage and tries to force it to the oppositely-disposed portion of the passage. This is also true for the jet on the oppsิตely-disposed portion of the passage, which urges the food product towards the first portion of the passage. With equal and opposite horizontal forces from the jets, the food product is centered in the passage.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 703-305-4949. The examiner can normally be reached on Monday thru Friday between 8am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

IH

October 20, 2003


Allan N. Shoap
Supervisory Patent Examiner
Group 3700